

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BERHANU JACOB,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
EDUCATION,

Defendant.

No. 2:22-cv-00160 DAD AC PS

FINDINGS AND RECOMMENDATIONS

Plaintiff is proceeding in this action pro se. The action was accordingly referred to the undersigned for pretrial matters by E.D. Cal. R. ("Local Rule") 302(c)(21). Plaintiff filed a complaint and paid the filing fee on January 26, 2022. ECF No. 1. That same day, a scheduling order was issued which ordered the plaintiff to serve a copy of the scheduling order and complete service of process within 90 days of filing the complaint. ECF No. 3 at 1. Plaintiff was cautioned that failure to complete service within 90 days may result in dismissal pursuant to Fed. R. Civ. P. 40(m). Id. The undersigned issued an order to show cause regarding lack of service. ECF No. 4. Plaintiff timely provided an affidavit regarding service of process. ECF No. 5. Review of plaintiff's submission shows that while plaintiff attempted service, service was not properly completed.


////

1 The court notified plaintiff that service was not properly completed via order on
2 September 26, 2022. ECF No. 10. The court directed plaintiff to the proper procedure for service
3 and ordered plaintiff to properly complete service and file proof of service within 30 days. Id. at
4 2. Plaintiff was cautioned that failure respond could lead to a recommendation that the action be
5 dismissed. Plaintiff did not respond. Plaintiff has not responded to the court's orders, nor taken
6 action to prosecute this case.

7 Therefore, IT IS HEREBY RECOMMENDED that this action be dismissed, without
8 prejudice, for lack of prosecution and for failure to comply with the court's order. See Fed. R.
9 Civ. P. 41(b); Local Rule 110.

10 These findings and recommendations are submitted to the United States District Judge
11 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one
12 (21) days after being served with these findings and recommendations, plaintiff may file written
13 objections with the court. Such document should be captioned "Objections to Magistrate Judge's
14 Findings and Recommendations." Local Rule 304(d). Plaintiff is advised that failure to file
15 objections within the specified time may waive the right to appeal the District Court's order.
16 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

17 DATED: November 2, 2022

18 
19 ALLISON CLAIRE
20 UNITED STATES MAGISTRATE JUDGE
21
22
23
24
25
26
27
28